

August 10, 2018

VIA ECF

The Honorable Vera M. Scanlon
Magistrate Judge
U.S. District Court, Eastern District of New York
225 Cadman Plaza East, 505 North
Brooklyn, NY 11201

Re: Hammer v. Bank of America, et al.; 1:17-cv-06602 (ILG) (VMS)
***Joint Motion to Refer the Action for Mediation, Stay Litigation Pending
Mediation, and Extend Discovery Deadlines***

Dear Magistrate Judge Scanlon:

With one exception, all currently active parties (“Moving Parties”) – Plaintiff Coleen Hammer and Defendants Bank of America, N.A., Capital One Bank (USA), N.A., and Experian Information Solutions, Inc. – submit this joint letter motion to respectfully request that the Court (a) refer the above-referenced action (“Action”) for mediation, (b) stay all litigation until October 22, 2018 so the parties may schedule formal mediation by that date without incurring additional and rapidly escalating discovery-related costs prior to mediation¹ and (c) extend all current deadlines so that there is sufficient time for remaining parties to complete discovery and other pretrial activities after mediation is completed.²

This joint motion is the first request by the Moving Parties to the Court to extend discovery deadlines, and the first request to the Court to refer the case for mediation and stay the Action pending mediation. Currently, fact discovery is scheduled to close on October 5, 2018, and the parties must notify the Court that all discovery is complete on or before November 9, 2018. The Moving Parties respectfully request that the Court extend the close of fact discovery until December 21, 2018 (sixty days after expiration of the parties’ requested stay pending mediation) and the date by which the parties must notify the Court that all discovery is complete until January 15, 2019.³

¹ The Action has been stayed pending arbitration with respect to Defendant Citibank, N.A. pursuant to the Court’s May 7, 2018 Order. In addition, one active party, Defendant Equifax Information Services LLC, has informed the Moving Parties that it does not agree to mediate the Action or to a stay of litigation pending mediation. The Moving Parties submit, however, that Equifax would suffer no prejudice if the Court refers the Action to mediation and enters a stay of litigation pending the outcome of mediation. Conversely, the Moving Parties would save substantial time and expense if the Court temporarily stays litigation and mediation is successful.

² The joint request for a stay until October 22, 2018 to conduct mediation is necessary because Plaintiff’s counsel’s office is closed and/or operating on a limited schedule due to religious observances for nine weekdays in September and two additional days in October. The parties will endeavor to schedule a mediation expeditiously but respectfully request that the Court set a deadline of October 22 because the parties are cognizant that scheduling a mediation between Plaintiff and three Defendants and accommodating a mediator’s schedule may prove difficult.

³ The parties also seek appropriate corresponding extensions of all dates and deadlines in the Court’s current scheduling orders, including but not limited to (a) the date for Defendants to respond to Plaintiff’s discovery deficiency letters, currently due by August 17, 2018, (b) the date by which counsel for Plaintiff and Defendants must

The Moving Parties concur in the belief that (a) meaningful and productive settlement talks are likely at mediation, and (b) mediation affords the Moving Parties a cost-efficient manner in which to attempt to resolve the Action while providing the opportunity to avoid considerable additional expense inherent in taking and defending depositions, conducting other discovery, retaining experts, and engaging in motion practice.

For all of these reasons, the Moving Parties submit that compelling reasons exist for the Court to refer the Action for mediation, stay litigation pending mediation, and further extend current deadlines to accommodate that process. The Moving Parties jointly and respectfully request that the Court enter an Order to that effect.

Respectfully submitted,

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confer about discovery disputes, currently scheduled for September 7, 2018, (c) the date for the parties to submit a joint discovery status letter, currently due September 14, 2018, (d) the date of an in-person Status Conference, currently scheduled for September 26, 2018, (e) disclosure of case-in-chief experts, currently due September 5, 2018, (f) service of expert witness reports, currently due September 17, 2018, (g) service of rebuttal expert witness reports, currently due October 15, 2018, (h) completion of expert witness depositions, currently scheduled for November 2, 2018, (i) commencement of dispositive motion practice, currently due by December 3, 2018, and (j) submission of a Joint Pre-trial Order, currently due by January 4, 2019. The Moving Parties further request that the Court consent to the filing of a proposed revised scheduling order by Plaintiff, Equifax, and other remaining Defendants, if any, within ten days of mediation.